

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

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FEDERAL TRADE COMMISSION,

Plaintiff,

v.

FLEETCOR TECHNOLOGIES, INC.,  
*et al.*,

Defendants.

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Civil Action No. 1:19-cv-5727-AT

**PLAINTIFF’S NOTICE REGARDING MOTION TO SEAL**

The FTC submits this notice regarding documents that it provisionally filed under seal (the “Documents”), accompanied by a motion to seal, on June 18, 2021 (Dkt. 170 & 172). The FTC filed the Documents under seal *only* because they had been designated “Confidential” by Defendants or non-parties, and thus followed the procedures set forth in Local Rule App. H § II(J)(e). Dkt. 173. Defendants are the only entities or individuals that have intimated potential concern with the public filing of the Documents.<sup>1</sup> However, Defendants did not submit a response

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<sup>1</sup> Prior to filing the motion to seal, FTC counsel conferred with Defendants’ counsel regarding whether the Documents could be publicly filed; Defendants did not agree to publicly filing them. While the bulk of the Documents were produced by Defendants, three were produced by two non-parties: OutsideIn Strategies (Ex. 339) and Jabian (Exs. 337 & 338). OutsideIn Strategies did not mark Ex. 339 as confidential; any claim of confidentiality comes from Defendants alone. While Jabian marked Exs. 337 and 338 as confidential, Jabian has stated that it would not file to

to the FTC's motion, which was due on July 12. Dkt. 177. FTC counsel emailed Defendants' counsel on July 13 to inquire about the absence of a responsive filing; they still have not responded.

Because Defendants, as the purportedly concerned parties, have not filed a timely response to establish good cause for sealing, the motion to seal should be denied, and the Documents that were provisionally sealed on June 18 should promptly be made available to the public. *E.g., Pledger v. Reliance Tr. Co.*, No. 15-4444, 2019 WL 4439606, at \*24 (N.D. Ga. Feb. 25, 2019) ("If the non-movant who marked the information confidential fails to file such a brief, they have not established good cause for sealing, and the motion to seal will be denied."). The FTC thus respectfully requests that the Court deny the motion to seal.

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keep the documents it marked as confidential under seal, and that it would leave to Defendants the task of moving to permanently seal.

Dated: July 21, 2021

Respectfully submitted,

/s/ Brittany K. Frassetto

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FEDERAL TRADE COMMISSION

**LOCAL RULE 5.1 CERTIFICATION**

Pursuant to LR 7.1(D), I hereby certify that the foregoing was prepared with 14-point Times New Roman font in accordance with LR 5.1(C).

/s/ Brittany K. Frassetto

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*Counsel for Plaintiff*

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served on all counsel of record through this Court's electronic filing system on this 21st day of July 2021.

/s/ Brittany K. Frassetto

*Counsel for Plaintiff*